

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

Civil Action No. 4-07-CV-487-A

-v.-

GOOGLE INC.,

Defendant.

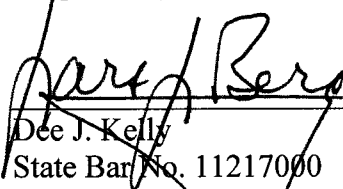
NOTICE OF CHANGE IN STATUS OF CITED AUTHORITY

On October 9, 2007, Plaintiff, American Airlines, Inc. ("American"), filed its Response to Defendant's Motion to Dismiss and Brief in Support Thereof. In American's brief, the decision in *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, 489 F.3d 921 (9th Cir. 2007), was cited in support of the argument that Google Inc. is an "information content provider" within the meaning of the Communications Decency Act, 47 USC 230(f)(3); and, therefore, not entitled to take advantage of the limited immunity provided by Section 230(c).

American wishes to notify the Court that on October 12, 2007, after American filed its opposition, the Ninth Circuit granted a petition for rehearing *en banc* in the *Roommates.com* case. The order granting *en banc* review provided: "The three-judge panel opinion shall not be cited as precedent by or to this court or any district court of the Ninth Circuit, except to the extent adopted by the en banc court." To American's knowledge, no briefing schedule has been

set for the *en banc* review. Although whether or not an entity is an "information content provider" is a fact-intensive inquiry, American believes that the conclusion reached in the *Roommates.com* panel decision was correct, and despite lacking precedential value in the Ninth Circuit, American continues to urge the reasoning of the panel decision to this Court in this case.

Respectfully submitted,



Dee J. Kelly
State Bar No. 11217000
Dee J. Kelly, Jr.
State Bar No. 11217250
Lars L. Berg
State Bar No. 00787072
Michael D. Anderson
State Bar No. 24031699
KELLY HART & HALLMAN LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
Phone: (817) 332-2500
Fax: (817) 878-9280

Of Counsel:

Terence P. Ross
Howard S. Hogan
Claudia M. Osorio
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Phone: (202) 955-8500
Fax: (202) 467-0539